

A CO-OPERATIVE LAW STORE.

SOME time before Christmas, a meeting of the Bar was held in Lincoln's Inn, to consider whether the system of reporting judicial decisions might not be amended. There were some men of eminence in the profession who from the first objected to so solemn a mode of dealing with a matter which they thought it beneath the dignity of the Bar to approach in this unusual fashion; but though the result does seem to some extent to justify this view, we adhere to the opinion which was expressed at the time, that there is no part of the practical machinery of our Courts of more importance, or which more urgently requires amendment, than the singular system of reporting which has for half the century the Courts of England stand alone in the world for the almost superstitious reverence which they pay to reported decisions; and while this principle continues to pervade the Bench, the authenticity and accessibility of the records of guiding precedents are essential conditions of the due administration of justice. The Reports are law, in the same sense, and almost in the same degree as the Statute Book itself; but while the State has always undertaken to supply the profession and the public with authentic copies of legislative enactments, it has never, except in very early times, taken the least care to provide authentic reports of important judgments; and it remains a settled maxim, that no one is excused for ignorance of the law which neither he nor his advisers may have any sufficient means of ascertaining. The duty which the authorities have neglected to perform in thoroughly English fashion by private enterprise, and the results have been so little satisfactory as to rouse the Bar to its recent unwelcome effort at reform. The present system has only grown up by degrees, but it has now arrived at the point of almost absolute free trade in the promulgation of what are supposed to represent the decisions of the Courts. The occasional inaccuracies and irregularities of these volunteer publications are by no means the worst of the evils with which the system is chargeable. The real grievance is the monstrous redundancy of the reports. Not only is every case printed again and again in rival publications, at an expense which of course falls upon the consumer of these curious products, but every decision worthy of preservation as a landmark of the law is overhauled and buried in a mass of reports so voluminous as to baffle the keenest industry, and for the most part so worthless as to serve no conceivable purpose except to embarrass the decision of future cases. Every day it becomes more difficult to extract any legal principle from the enormous heap of debris from under which it has to be picked out; and if the law itself is to be preserved and amended, the first condition is to save it from being smothered by the hands of those who undertake to present it in an accessible shape. Now this is not a small subject, nor one in any way unworthy of the most energetic action of the Bar, the small, unfortunates of the Reports is not only an injury to the law, but it is also a tax upon the pockets of its professors, and the objections of those who stood aloof from the movement were probably based on the fear that an agitation set on foot for the improvement of the law might degenerate into a mere pecuniary speculation for the benefit of lawyers. In spite of this apprehension, however, the December meeting persevered, and appointed a committee to report on the best method of amending the present system.

After six months of industrious inquiry, the committee presented themselves last week before a second meeting of the Bar, to explain what they had discovered and what they proposed to do. It would not be fair to criticise their difficulties without taking account of the difficulties with which they had to contend. They seem to have fully recognised the fact that the great evil to be combated is the redundancy and multiplicity of existing reports, and the history of all that has been done in the matter since reporting first came into vogue was almost enough to teach them the impracticability of any solution, except that of Government intervention. Half a century ago, the multitude of reports now complained of was unknown. Each judge sanctioned a single set of reports, and, in one instance, when an interloper persisted in printing his notes of what fell from the Bench, he was worried, insulted, and almost ruined by the arbitrary judge whose wisdom he desired to promulgate. This off-hand fashion of limiting the growth of reports would not be tolerated in the present day, though it certainly did ward off the mischief which has now provoked a section of the Bar into united action. The first serious inroad upon the old arrangement of single authorised reports was made by some spirited speculators who issued a complete set of Reports of all the Courts, at a price very much below that previously charged. For many years, the *Law Journal* was despised and unprosperous; but, in spite of a debt which is said at one time to have reached fifteen or twenty thousand pounds, the proprietors persevered, and at length established a circulation, chiefly among country solicitors, almost ten times as large as that which the authorised reports commanded within the Bar. The success of this project, which ended by creating a property worth several thousands a year, was the cause of all the mischief that has ensued. One publisher after another started his new series of reports, with tempting advertisements to attract purchasers by the promise of cheapness, accuracy, and speed. The continual growth of new publications of the kind was soon stimulated by a very important discovery. The *Law Journal* had been started with a large staff of reporters, who, though individually badly paid, were in the aggregate a heavy charge on the capital of a young speculation; but the trade was not long in finding out that the Bar contained numbers of young and energetic men with nothing to do, who would be glad to report for nothing, or next to nothing, as a means of gaining experience in their profession during the early years when they were waiting for clients who would not come. Accordingly, it became the practice of publishers to start their reports on the principle of engaging a working staff whose pay was to be mainly, and sometimes wholly, prospective and contingent on the profits of the speculation. A number of reports came into existence on these easy terms, until at the present time any one who is curious to ascertain what a judge has actually said may, if he pleases, collate no fewer than six different versions. The same cause which has given us so many repetitions of each case has led to the reporting of a multitude of decisions of which a very small percentage only have any bearing on the progress of the law. Each publisher of reports vies with his rivals in giving his customers the largest possible number of cases, and for the

result is that, in place of a well-selected collection of precedents, the law is flooded with an excessive supply of cases which the Bar reasonably objects either to read or pay for. This is the inevitable result of free trade; and the same causes which have brought the evil to its present height are still in operation to aggravate it year by year, by producing newer and yet newer series of reports cheaper and more prolific than any of their predecessors. There would seem to be nothing in this at all different from the ordinary working of free competition, and it may be asked why the Bar, instead of gathering together in public meeting like a helpless flock of sheep, do not protect themselves by purchasing only the best-selected and best executed series of reports, and leaving the rest to die out for want of encouragement. The answer to this obvious question is, that the peculiar conditions of the traffic take it out of the rule of the ordinary laws of political economy. We have already said that the labour which goes to the production of reports can be obtained for nothing by speculators who are content to employ inexperienced, though in many cases, extremely able men. But this is only one of many exceptional features. The maxim that a good article will drive a bad one out of the market has in this case no application whatever, and so far is the demand from creating, and the supply necessitates the demand. When once a set of reports has attained any sort of footing, it is a necessity for practising barristers to make themselves familiar with its contents; and the more it offends against the rule that a choice selection of cases only should be printed, the more dangerous it becomes for the advocate to be ignorant of authorities which may at any time be cast in his teeth in the midst of an argument. Thus, instead of encouraging judicious selection, the working of free trade is to stimulate the worst of the modern system of reporting, and year after year publishers pride themselves on turning out reports more voluminous than have ever been seen before.

The Bar Committee seem very soon to have discovered that there was only one possible way of checking this evil, namely, by the establishment of a practical monopoly. In terms of course, it would be impossible in these days to prohibit the publication or even the citation of volunteer reports in favour of a series which happened to be promoted by a Committee of the Bar, and the only other way of getting rid of the multiplicity of reports was to establish one more series with such a command of the market as to starve all others out of existence. The danger of this project was that, if it failed, the new reports, instead of swallowing up all the others, would only add to the evil by flooding the profession with seven sets of reports instead of six. We should have Aaron's rod and the magicians' rods into the bargain, and the last state of the law would be worse than the first. Besides this, a monster scheme for running established rivals off the road is always a hazardous and costly venture, and the Committee were by no means prepared to ask the Bar to find the necessary funds for the experiment.

Although on profit they were bent, They had a frugal mind.

What they proposed was, to conduct a speculation involving an outlay of £10,000 to £20,000 a year through the agency of a Corporation with limited liability, and no capital. This Corporation was to be composed of members elected exclusively by the Benchers of the Inns of Court and Serjeants' Inn—or, in other words, by Queen's Counsel and Serjeants, with the exception of two members, who, for obvious reasons, were to be invited to represent the Solicitors, the general body of the Bar being wholly disfranchised. The Council so constituted was to engage a staff, one half of whose pay was to be contingent on the profits of the speculation, and the rest on such guarantees as it might be possible to obtain from some printer and publisher, who would kindly find the capital to work the concern without asking to share the profits. The experience of the trade-publishers, from whose practice the idea was borrowed proved that it would be practicable to get the work done (well or badly) on the "pay-when-we-can" principle, in the manner proposed; but the arrangement seemed as little likely to secure the efficiency of the reports as to save the schemes from ultimate collapse. Least of all was there any probability that the new publication would establish itself alone. The bait of cheapness was offered, but not to the extent to which it had already been carried by more enterprising publishers. The prestige of a Bar meeting was relied on, and would have sufficed to ensure a certain number of subscribers; but as the Bar was divided in opinion, and the Solicitors—the largest purchasers of cheap reports—were not represented there at all, it was a tolerable certainty that the project, if tried, would for a year or two have aggravated instead of diminishing the evil, and then would have died out in the competition with publishers who knew their business better, and were not afraid to risk their own money in supporting their speculations. In the shape into which the Committee threw it, the whole affair had degenerated into a mere Co-operative Store for the supply of cheap reports to lawyers who were willing to join it. In justice to the Committee, it is only fair to say that about a third of their number declined to sign the report, and that the remainder were so far from being agreed on the subject that it was found necessary to present a sort of compromise scheme, without the reasons which were supposed to recommend it, or the evidence on which it is based.

The meeting which was summoned to the obsequies of this unpromising report was conducted with all due solemnity. It was presided over by the Attorney-General, who carefully abstained from saying a word in favour of the project. The body of the law was filled by members of the Bar, while the Committee occupied the dais, round the legs of which sat the Committee men of the Outer Bar. The scheme was formally recommended by the Chairman of the Committee, who said very little except that its feasibility, about which the Committee had differed, ought to be taken for granted by the Bar; and it was seconded by a colleague who doubted the financial basis of the project, but appeared to see no harm in trying it as an experiment, which, if it failed, could not hurt a Council without money or liability, and would damage no one but the reporting staff. That a scheme so contrived and so fathered should have been postponed till after the Long Vacation—which, we take it, will be *sine die*—is about the best thing that could have happened for the credit of the Bar. The notion of vested interests in existing reports seems to us a fallacy. Reports are made for the Bar, not the Bar for the Reports; and if it were not a rather delicate thing for a great monopoly within it, we should say that lawyers have as much right to combine in a Co-operative Society for the manufacture of cheap reports as working people have to unite in Co-operative Stores for the supply of cheap grocery or bread.

But it is difficult to throw a halo of glory over so utilitarian a project, and the really original idea of conducting such a speculation without raising a sixpence of capital seems as little for the dignity of the liberal of the representatives of the Bar. If the inhabitants of Little Piddington, suffering under bad and dear bread, were to hold a solemn meeting, with the great gentry on a table and the small gentry under it, and resolve to establish a Co-operative Bakery without a farthing of capital, their prospects of success would be small. If they then addressed the bakers of the town with a request that they would close their shops and work for the Co-operative Society at modest salaries, to be paid out of any profits which might not be muddled away by a board who risked nothing in the concern, they would scarcely expect very cordial assistance. If, in addition to this, the society promised to arrange with their miller to guarantee half the bakers' salaries and supply flour upon credit, it would be evident enough that the miller who found the money would be the master of the concern—Co-operative gentry, journeymen bakers, and all. Now this is precisely, without any exaggeration, what the majority-report of the Bar Committee suggested, and anything less likely to conduce to the improvement of the law or the dignity of the Bar it would be hard to conceive. What we have already referred to as the small side of the great question seems unfortunately to have got uppermost; still, even the failure of the scheme is not without its value as a proof that no feasible project can be devised for pruning the redundancy of existing reports, except the simple plan of an issue by the same authority under which the Statute Law is published. If the Bar, instead of trying to beat publishers at their own trade without running the risks which publishers run, would use their combined influence to urge the Government to perform an obvious duty, they would do more good than even if they succeeded in cutting down the price of the law books which they buy to what some cynics say is their true value—the cost of the paper which they contain.—*Saturday Review*.

NATIONAL PROTESTS.

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A FEW days ago, while the impending division on the Danish question was occupying universal attention, Mr. J. B. Mill addressed a letter to the *Daily News*, which, like everything he writes, was well worth considering. The point which Mr. Mill wished to enforce was the expediency and the duty of uttering national protests against the wrongful acts of foreign Governments, and of thus bringing the public opinion of England to bear upon the conduct of the world. It was, he urged, quite unnecessary that these protests should be in the remotest degree connected with any intention of making war on the wrongdoers. England might say that she had no wish or power to check the wrong by force, but at any rate she could keep the moral opinion of the world in a healthy state, and proclaim that a wrong was a wrong. She could strip off the covering of hypocrisy, and hold up bad deeds and bad men in their naked hideousness to the world. Evidently, although the letter, being published when it was, seemed to have some bearing on the question at issue between the Government and the Opposition, this bearing was only a very remote one. The Government was not accused of uttering a national protest without an intention of going to war, but of uttering a national protest with a seeming intention of going to war. This is quite a different thing, and Mr. Mill took very good care to avoid mixing up his case with the defence of Lord Russell. Whether it is wise and incumbent on us to utter national protests against wrongdoers when we are plainly saying that, if the wrongdoers like to go on doing wrong, we shall do nothing to hinder or punish them, is a novel question, and one which, in spite of Mr. Mill's authority, most persons will find it difficult to answer. The first thing that occurs is that there is one Sovereign who exactly comes up to Mr. Mill's ideal—who is always uttering protests, always basing his protest on the highest and noblest moral and religious grounds, and who is absolutely prevented by his position from fighting; and this Sovereign is the Pope. The ideal of Mr. Mill might seem to be realised by those ecclesiastical wadges of denunciation which probably please their authors, but are without any appreciable effect on the politics of Europe. But it never leads us to truth, in such inquiries, to take illustrations which we know do not satisfy the spirit, although they may satisfy the letter, of what is put forward. If we look to private life, we see that many bad things are either prevented or punished by the condemnation of those who give the tone to general opinion; and as this opinion becomes purer and wiser, its effect becomes greater. For example, drinking to excess has now been banished from decent society, because the disrepute which a drunkard would incur among respectable families is sufficient to overcome a man inclined to drink. Every now and then there is a person, like a fierce theological clergyman or a fanatical landlord, who tries to set up new standards of duty, and to reprobate what he chooses to consider crimes. The neighbourhood rises against him or laughs at him, just as lay Europe despises the effusions of the Pope. But still the general influence of social opinion continues, and it is on the whole a wholesome influence, though sometimes inclined to ally itself with the tyranny of a narrow conventionalism. If individuals are thus kept right, to a certain extent, by the growth of a good and a strong social opinion, why should not nations be kept right in the same way? We can see some signs that the enlightened and healthy opinion of the more advanced nations of Europe has already done some good, and this good may be supposed capable of being increased. In a general way, therefore, we are inclined to admit that Mr. Mill is right, and that national protests are good things; but there appear to us to be practical difficulties besetting their utterance to which attention ought to be given.

In the first place, who is to utter a national protest, and when does a protest become national? We have two great modes of declaring our opinion—the Press and Parliament. Now, to say that the English Press ought to make national protests is scarcely to say anything. Of course, if it thinks foreign nations ought to be abused, it will abuse them. There is every motive why it should do so, and none why it should not. It hurts the feelings of no readers, and it gratifies the national vanity of many, to say that our neighbours in Europe are wicked and deceitful and tyrannous, generally bad, and where we are unselfish, quiet, gentle, and noble. If a national protest means the utterance of the Press, it means what we have got already, and what we often have too much of. What the English Press in general wants, in discussing foreign affairs and the behaviour of foreign Governments, is not vehemence, but knowledge. And if the English Press errs from ignorance, much more does the Press of other countries. We all know, for

example, how much we are misrepresented as well as deceived by American journalists. We conceive, therefore, that Mr. Mill means that a national protest should be made in Parliament; and if in Parliament then by Ministers, for no one else can speak effectively or legitimately on behalf of the nation. In fact, Mr. Mill means that Lord Russell should have used the language he did to Russia about Poland, and to the German Powers about Denmark, only that he should have made it perfectly clear that he did not mean to fight. But then it is not always that the utterances of Ministers can be accepted as national protests. For the Government may only be speaking the opinions of a small portion of the nation, or of a portion of the nation at large, but very far from the whole. When, for instance, Lord Derby was last in office, he and his Cabinet were decidedly adverse to the Italians, and thought Victor Emmanuel and Cavour had done very wrong in quarrelling with a good Conservative Power like Austria. Supposing Lord Derby had uttered a public condemnation of the Italians as wrongdoers, and disturbers of treaties and the peace of Europe, it can hardly be said that this utterance would have been a national protest, for the bulk of the English nation is, and was, friendly to Italy. So, again, when Lord Russell lately condemned the Federals for persisting in what he considered an unnecessary and hopeless war, he uttered an opinion with which we certainly are not disposed to quarrel, but which we suppose Mr. Mill would consider mistaken, and which would probably be adverse to the sentiments of numbers of persons who, as readers of penny newspapers, have a theoretical capacity of judging questions of foreign politics. However just, therefore, his condemnation of the Federals may have been, it cannot be considered to have been a national protest.

The second difficulty is a still greater one. When are these protests to be made, and how far is it desirable that Ministers should represent, countenance, and express the hasty dictates of popular ignorance? Mr. Mill, for example, wrote his letter at the time when the Schleswig-Holstein question was being discussed, and it is natural to ask how far what he said was applicable in this case. The Ministry and the great majority of English journals condemned Germany altogether. But the persons who actually printed themselves on not knowing anything about Schleswig-Holstein, and who would have thought that they were degrading themselves to the accused condition of German professors if they had attempted to understand it. Ministers, probably, knew better what were the facts with which they had to deal; but then, as Mr. Gladstone showed in his speech, they had two opposite and irreconcilable notions to combine; they had to respect the nationality of the Duchies, and to uphold a treaty violating that nationality. In such a case, suppose that Ministers, wishing to say something popular, parade the one of these objects which the English public best understands, but which they themselves see must in the long run be abandoned, and that they echo the opinions of critics whose ignorance is more than voluntary, and is a source of positive pleasure to them. What they say under such circumstances can scarcely be called a national protest. And this leads us to a third difficulty. What will be the probable effect of the protest on the persons who are the immediate subjects of the condemnation? Very often it will be wholly inoperative. The condemnations of the whole of Germany which have been uttered in England had simply no effect on Germany at all, because they avowedly came from persons who did not pretend to understand what they were talking of, or who, if they knew, had official reasons for seeming ignorant. The Germans have been learning for ten years under the humiliation of having had to know, at the dictation of Russia, the position they had gained in Schleswig-Holstein; and now Mr. Gladstone informs them that Russia had nothing to do with Prussia's acceptance of the Treaty of 1862, and that it was Lord Palmerston who was the sole author of that glorious triumph of diplomacy. What can a German who reads Mr. Gladstone's statement do but laugh at it? Either it must have been made in utter ignorance of the recent history of Germany, or it must have been made to suit some little purpose of English politics with which the Germans have nothing to do.

For a national protest to be effective, therefore, it must be, in the first place, made by Ministers; secondly, it must be supported by the general consent of English opinion; thirdly, it must be well founded; and fourthly, it must come home, or at least be likely to come home, to the people against whom it is directed. We cannot recall any recent national protest which fulfilled all these conditions, except the national protest against the continuance of the rule of Austria, and of the satellites of Austria, in Italy. The opinion of England was in this instance expressed by Lord Palmerston and Lord Russell; the assent it obtained from the country was so strong that the Conservative leaders who disapproved of it were cowed into silence; it was fully justified by the history of Italy since the Peace of 1815; and it had some effect upon the policy of Austria, while it helped to determine that of France and of Italy. On the other hand, the protest of England against the conduct of Russia to Poland failed in its effect, because it was only partially well founded, and because the Russians thought that the existence of their Empire was at stake. Lord Palmerston's protest against the conduct of General Butler for New Orleans had the effect of making him for a moment a popular hero in America. It satisfied all the conditions of a national protest, except that it set the national vanity of the Americans against their sense of justice and humanity. It was made by a Prime Minister; it had the unanimous assent of Englishmen, for even the War-Cristians are ashamed of Butler; it was uncontestedly well-founded; but it riled the Yankees, and they make an idol of this vulgar bully. A national protest should do all that it is meant to do. But then it may be said that, if a national protest does no other good, it has a fine moral effect on the nation that makes it, giving a consistency and a direction to its opinions, and furnishing it with a beneficial standard. To a certain extent this is true. It may have done Englishmen good to have denounced Butler, and a national protest of this sort made by us may induce the representatives of England to behave better than Butler did if they are ever tried as he was tried. It is also an excellent thing that a nation should have a keen feeling of hatred of injustice, and this feeling may be kept alive if it is encouraged to express itself even when the facts alleged are misrepresented. It is, perhaps, desirable that Englishmen should boil with indignation when they hear that a little Power like Denmark is being oppressed by two big Powers, although, as a matter of fact, this indignation would seem misplaced if all the facts were known. At the same time, a nation

might easily become censorious, vain, and malicious if it were too frequently to indulge in the moral delight of denouncing its neighbours without assuring itself that it was right; and it seems doing evil that good may come if a nation seriously proposes to exalt its tone by greedily swallowing and repeating calumnies.

SUBALTERN ECONOMICS.

THERE are two ways of regarding a profession. It may be resorted to as a means of maintenance, or it may be adopted for the sake of a certain social status and defined position which it brings. A very large number of cases will, of course, be found to lie between these views and to partake of both of them; but, putting it roughly, professions are adopted either for use or for ornament. This, of course, relates to their secular aspect merely—that in which immediate self-interest supplies the motives of action. It is possible for a man to embrace not only the sacred, but any other profession, from higher motives; specially from a conviction that it is the one in which he is likely to do most good, and serve God the best. But such motives, as operating independently of economic considerations, we at present omit from our view.

Now, taking the army as a profession, it is entered from either of the two motives above mentioned, or from both combined. But here we should perhaps distinguish between the motives of the older responsible person whose judgment sways that of the younger, and those of that younger man who enters it. The same step may be taken from the points of view of the guardian, with a view to the former object, and from that of the youth whose name is put down on the list for examination, with a view to the latter. At eighteen we are often too full of life to trouble ourselves about the means of living; but carrying a colour, mounting a uniform, taking a full swing of certain social or animal pleasures, enjoying a certain ball-room prestige, and having much leisure for billiards, are attractions in the eyes of light-minded youth. Thus he graciously consents to the proposal of "the governor" or "relieving officer," or by whatever other fond and reverential title he prefers to designate his parent, and becomes an ensign. And, again, we ought to take into view the fact that influential connections, and powerful interest at headquarters, often change the whole prospect as regards professional considerations. The profession of an officer "and a gentleman"—an important qualification carrying weighty financial consequences—may not be remunerative at first; but in the course of years, when wild oats have been sown in such sort as to avoid invidious scrapes, it may turn out so, and the officer "and gentleman" may become a self-supporting concern, and prove a judicious investment.

What is secured by influential connections to some extent by the wheel of fortune to a few more, especially, of course, amid the brisk rotation which a war imparts to it. And here the soldier's may become a profession of great prize for a few—the few who possess merit, and whose merit finds opportunities of displaying itself and being recognised, and who are left from among the victims of disease, or shipwreck, or wounds. And this remote and doubtful contingency is what dazzles the eyes of many persons who have no peculiar penetration as regards the chances of life. Perilous and dubious as the prospect is, these conditions make it only more conspicuous, and enhance its fascinations. It is the old story of the one prize amid many blanks; the more numerous they are who miss the prize, the more of admiration is lavished on the lucky dog who draws it. But to the many who enjoy no leverage of powerful friends, and whom no such luck befalls, the army, as a professional subsistence, is a mere illusion. It is impossible, in all the stages of human life, to be content with a war imparts to it. And here the soldier's may become a profession of great prize for a few—the few who possess merit, and whose merit finds opportunities of displaying itself and being recognised, and who are left from among the victims of disease, or shipwreck, or wounds. And this remote and doubtful contingency is what dazzles the eyes of many persons who have no peculiar penetration as regards the chances of life. Perilous and dubious as the prospect is, these conditions make it only more conspicuous, and enhance its fascinations. It is the old story of the one prize amid many blanks; the more numerous they are who miss the prize, the more of admiration is lavished on the lucky dog who draws it. 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Peine and Stricker's circular, of July 27th, speaking of the new crop of Java sugar, which is anticipated a deficiency of 500,000 piculs, which is attributed to the unfavourable weather; and fears are entertained that the supply will not be sufficient to fulfil contracts already entered into by the Government.

Breaststuffs are vigorous, at \$26 to \$27 for Adelaide brand, and \$24 10s. for Chilian. Private telegrams from Sydney report the purchase of the Dundonald's cargo, partly on Melbourne account.

Sugars very firm; yellow crystals, in trade parcels, are worth \$40 to \$41 per ton.

Kerosene is easier, the arrival of the Lady Dufferin having replenished stocks.

Arrived—Goulden, Fleese, from Newcastle; Perseus, from Calcutta; Sarah Mary, from Hamburg.

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